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12 Attorneys for Defendants Temujin Labs Inc.
 (Delaware), Temujin Labs Inc. (Cayman), and the
 13 Individual Defendants

14 UNITED STATES DISTRICT COURT
 15 NORTHERN DISTRICT OF CALIFORNIA
 16 SAN JOSE DIVISION

17 ARIEL ABITTAN,

18 Plaintiff,

19 v.

20 LILY CHAO (A/K/A TIFFANY CHEN, A/K/A
 YUTING CHEN), DAMIEN DING (A/K/A
 21 DAMIEN LEUNG, A/K/A TAO DING),
 TEMUJIN LABS INC. (A DELAWARE
 22 CORPORATION), AND TEMUJIN LABS INC.
 (A CAYMAN CORPORATION)

23 Defendants,

24 and

25 EIAN LABS INC.,

26 Nominal Defendant.
 27 _____
 28

Case No.: 5:20-cv-09340

**DECLARATION OF FELIX S. LEE IN
 SUPPORT OF ADMINISTRATIVE
 MOTION TO CONTINUE CASE
 MANAGEMENT CONFERENCE**

Judge: Hon. Nathanael M. Cousins

1 I, Felix S. Lee, hereby state and declare as follows:

2 1. I am an attorney admitted to practice before this Court and a partner at the law
3 firm of Fenwick & West LLP, which represents Defendants in this action. I have personal
4 knowledge of the matters set forth in this declaration and, if called upon to do so, could and
5 would testify competently as to the matters described below.

6 2. On June 16, 2021, counsel for Defendants sent to counsel for Plaintiff a draft
7 stipulation proposing the continuation of the case management conference in this action to 30
8 days after rulings on Defendants' pending motions to dismiss, on grounds that convening such a
9 conference would be premature in light of the pendency of those motions.

10 3. On June 18, 2021, Plaintiff's counsel responded by proposing that the case
11 management conference be continued until July 28, 2021.

12 4. On June 22, 2021, counsel for the parties met and conferred to discuss the
13 contemplated continuance of the case management conference. Counsel for Defendants
14 expressed the view that the case management conference and the antecedent Rule 26(f)
15 conferences between the parties would be premature, given that Defendants had moved to dismiss
16 on grounds that certain of them had not been properly served, and that the claims against Temujin
17 Delaware should have been brought in an earlier filed state court action. Defendant's counsel
18 went on to note that it would be illogical for parties who arguably have not been properly served
19 to engage in meet and confer discussions over discovery, with the same being true for Defendant
20 Temujin Delaware in light of uncertainty as to whether it should have been sued in a parallel state
21 court action. Plaintiff's counsel took the position that they did not want an open-ended
22 continuance of the case management conference, and that case management conferences are
23 frequently held while motions to dismiss are pending. Plaintiff's counsel also said they wanted
24 discovery to proceed expeditiously. Counsel for Defendants noted that they had no aversion to
25 discovery proceeding in the abstract between Plaintiff and Temujin Delaware, and indeed, had
26 already served discovery in the parallel state court proceeding, but that in this action the uncertain
27 procedural status of each of the Defendants weighed in favor of continuance of the case
28 management conference. Counsel for both parties agreed to further consider their positions and

1 continue to meet and confer on the issue.

2 3. On Friday, June 25, 2021, I proposed by email to Plaintiff's counsel that the Case
3 Management Conference be continued until September 15, 2021, with the rationale being that
4 such date would provide the Court sufficient time to rule on the pending motions to dismiss and
5 also provide time for the parties to assess the outcome of those orders and prepare to
6 meaningfully meet and confer over the requisite Rule 26(f) topics, if warranted.

7 4. On Monday, June 28, 2021, Plaintiff's counsel responded by email and declined to
8 stipulate to rescheduling the Case Management Conference to September 15, and noted that they
9 would oppose any effort to continue the conference from its current date.

10 I declare under penalty of perjury under the laws of the United States of America that the
11 foregoing is true and correct.

12 Executed this 2nd day of July, 2021 at Sunnyvale, CA.

13 FENWICK & WEST LLP

14 By: /s/Felix S. Lee
15 Felix S. Lee

FENWICK & WEST LLP
ATTORNEYS AT LAW